

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

OCT 25 2020

David J. Bradley, Clerk of Court

SHANNON TOLBERT
Plaintiff's Name and ID Number

WALKER COUNTY JAIL
Place of Confinement

CASE NO. _____
(Clerk will assign the number)

v.

UNITED STATES ATTORNEY'S OFFICE
Defendant's Name and Address

United States Courts
Southern District of Texas
FILED

OCT 05 2020

David J. Bradley, Clerk of Court

Defendant's Name and Address

Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.**
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: OCTOBER 18, 2019

2. Parties to previous lawsuit:

Plaintiff(s) SHANNON TOLBERT

Defendant(s) WALKER COUNTY

3. Court: (If federal, name the district; if state, name the county.) WALKER COUNTY

4. Cause number: H-19-3926

5. Name of judge to whom case was assigned: NIA

6. Disposition: (Was the case dismissed, appealed, still pending?) 11.08 WRIT OF HABEAS CORPUS DISMISSAL W/ NO PREJUDICE

7. Approximate date of disposition: NIA

II. PLACE OF PRESENT CONFINEMENT: WALKER COUNTY JAIL

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: SHANNON TOLBERT

WALKER COUNTY JAIL

655 FM 2821 ROAD WEST, HUNTSVILLE TEXAS 77320

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: UNITED STATES ATTORNEY'S OFFICE, SOUTHERN DISTRICT OF TEXAS
POST OFFICE BOX 61010

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

VIOLATED PLAINTIFF FEDERAL CIVIL RIGHTS, FALSE IMPRISONMENT

Defendant #2: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #3: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

ON OR ABOUT OCTUBER 29, 2014, THE PLAINTIFF WAS INDICTED ON CT. I: BANK ROBBERY [18 USC § 2113 (a)], CRIMINAL CASE NO. 4:14-CR-00530. IN THE UNITED STATES DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION.

THE UNITED STATES ATTORNEY'S OFFICE INTENTIONALLY, KNOWINGLY AND WILLFULLY CONSPIRED WITH WALKER COUNTY DISTRICT ATTORNEY'S OFFICE TO VIOLATE CLEARLY ESTABLISHED FEDERAL LAW, WHICH PRECISELY PROHIBITS SHAM PROSECUTION.

THE UNITED STATES ATTORNEY'S OFFICE ALSO CONSPIRED TO VIOLATE PLAINTIFF FEDERAL CIVIL RIGHTS, IN ORDER TO RESTRAIN HIM IN HIS LIBERTY AND REDO A STATE CASE, THAT THE STATE WAS CONSTITUTIONALLY BARRED FROM SECOND PROSECUTION. DUE TO EGREGIOUS PROSECUTORIAL MISCONDUCT

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

PLAINTIFF WANT (1). THE FEDERAL GOVERNMENT TO HOLD WALKER COUNTY DA OFFICE CRIMINALLY ACCOUNTABLE. (2). THE FEDERAL GOVERNMENT TO HOLD UNITED STATES ATTORNEY'S OFFICE ACCOUNTABLE.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

N/A

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

TDCJ # 77193b

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): SOUTHERN DISTRICT OF TEXAS

2. Case number: N/A

3. Approximate date sanctions were imposed: ON OR ABOUT SEPTEMBER 2015

4. Have the sanctions been lifted or otherwise satisfied? YES NO

V. STATEMENT OF CLAIM

ON OR ABOUT NOVEMBER 4, 2014, PLAINTIFF WAS TAKEN INTO FEDERAL CUSTODY BY THE UNITED STATES MARSHALS.

UNDER THE CIRCUMSTANCE AND EVIDENCE WHICH THE UNITED STATES ATTORNEY'S OFFICE FILED BANK ROBBERY CHARGE AND SECURED INDICTMENT, VIOLATED PLAINTIFF FEDERAL CIVIL RIGHTS UNDER THE FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

THE UNITED STATES ATTORNEY'S OFFICE VIOLATED THE TRUST OF THE PEOPLE DURING FEDERAL GRAND JURY PROCEEDINGS, AS WELL AS FEDERAL LAW, WHEN USA KENNETH MAGIDSON AND USA MEGAN J. PAULSON CONSPIRED TO ACCEPT CONTAMINATED EVIDENCE, FALSIFIED GOVERNMENT DOCUMENTS AND KNOWN SUBORN PERJURED WITNESS TESTIMONY.

EVIDENCE THAT WAS FABRICATED AND SUBORN BY WALKER COUNTY DISTRICT ATTORNEY'S OFFICE AND SHERIFF'S OFFICE, "AFTER" THE STATE LOST ITS CASE ON GROUND OF INSUFFICIENT EVIDENCE AND PERJURED TESTIMONY. THE STATE WAS FORCED TO DISMISS AGG ROBBERY CHARGE OR FACE GRAND JURY NO BILL.

FABRICATED AND MISREPRESENTED EVIDENCE:

ON MAY 23, 2014, ASST. DA STEPHANIE STROUD FILE TAMPERING CHARGE ON PLAINTIFF FOR CROSSMAN BB GUN BOX. HOWEVER, ON MAY 27, 2014, ASST DA STROUD WITHHELD BB GUN BOX, THEN MISLED GRAND JUROR'S TO BELIEVE WEAPON USED TO COMMITT ROBBERY WAS AN AR-15 ASSAULT RIFLE.

AFTER THE STATE WAS FORCED TO DISMISS ITS CASE, ASST. DA STROUD TURNED CROSSMAN BB GUN BOX OVER TO THE UNITED STATES ATTORNEY'S OFFICE.

ASST. DA STROUD ALSO TURNED OVER A WALKIE TALKIE THAT WAS PRESENTED TO STATE GRAND JURY, BUT WITHOUT DNA EVIDENCE. WHEN IT WAS PRESENTED TO FEDERAL GRAND JURY PLAINTIFF WAS LINKED TO WALKIE TALKIE BY DNA.

ASST. DA STROUD PROVIDED FALSIFIED MINIFILER LABORATORY REPORT, DATED MAY 21, 2014. ASST. DA STROUD ALSO PROVIDED SUBORN PERJURED WITNESS TESTIMONY FROM AMBER SANDERS AND STEPHEN COLE. THEY BOTH TESTIFIED AT STATE AND FEDERAL GRAND JURY HEARINGS, ASST. DA STROUD SUBORN PERJURY BOTH TIMES.

ON AUGUST 26, 2014, THE DAY BEFORE GRAND JURY NO BILL WAS DUE, ASST. DA STROUD HELD EXAMINING TRIAL AND DISMISSED AGGI. ROBBERY CHARGE UPON THE COURT FINDING NO PROBABLE CAUSE.

ASST. DA STROUD THEN REFERRED THE STATES CASE AND EVIDENCE TO THE FEDERAL GOVERNMENT FOR A SHAM PROSECUTION. BEFORE PLAINTIFF MET HIS PUBLIC DEFENDER OR WAS ARRAIGNED, THE UNITED STATES ATTORNEY'S OFFICE HAD A WRITTEN DISCOVERY AGREEMENT IN PLACE. THE SOLE PURPOSE OF AGREEMENT WAS TO PREVENT PLAINTIFF FROM BRADY MATERIAL — EXONERATORY EVIDENCE. THAT WOULD HAVE EXONERATED PLAINTIFF FROM FALSE IMPRISONMENT AT THE ARRAIGNMENT, AS WELL AS EXPOSED FEDERAL AND STATE CORRUPTION.

HAD PLAINTIFF BEEN GRANTED HIS ALLEGED GUARANTEED CONSTITUTIONAL RIGHT TO DUE PROCESS AND EQUAL PROTECTION

UNDER THE LAW. HIS FEDERAL INDICTMENT WOULD HAVE BEEN DISMISSED ON NOVEMBER 10, 2014. BECAUSE PLAINTIFF DID NOT GET TO ENJOY DUE PROCESS AS A FUNDAMENTAL RIGHT, HE WAS FORCED TO SUFFER AND ENDURE FALSE IMPRISONMENT ELEVEN MORE MONTHS.

FINALLY ON OR ABOUT SEPTEMBER 28, 2015, PLAINTIFF WAS ABLE TO OBTAIN ONE OF MANY FABRICATED AND FORGED GOVERNMENT DOCUMENT. ON OCTOBER 5, 2015, UPON MOTION BY THE UNITED STATES DISTRICT ASST. DA JULIE N. SEARLE THE INDICTMENT WAS DISMISSED, BUT IT WAS DISMISSED WITHOUT PREJUDICE.

ALTHOUGH FEDERAL LAW REQUIRE DISMISSAL WITH PREJUDICE UNDER FLAGRANT CIRCUMSTANCE, BECAUSE THE UNITED STATES ATTORNEY'S CONSPIRED AND AGREED TO BRING SHAM PROSECUTION THE STATE WAS NOT HELD ACCOUNTABLE FOR THE FRAUD IT COMMITTED AGAINST THE FEDERAL GOVERNMENT OR VIOLATION OF PLAINTIFF CIVIL RIGHTS.

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10/02/2020

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ZIP 77340

041M12251700

Walker County Jail
655 FM 2821 Road West
Huntsville, Texas 77320

Shannon Tolbert
Shannon Tolbert
District Attorney
State of Texas

8/10/2020
FILED
CLERK

David J. Bradley, Clerk of Court
SOUTHERN DISTRICT OF TEXAS
POST OFFICE BOX 60100
HOUSTON, TEXAS 77208

CLERK
UNITED STATES DISTRICT COURT
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HOUSTON, TEXAS 77208